THIS OPINION WAS NOT WRITTEN FOR PUBLICATION

The opinion in support of the decision being entered today (1) was not written for publication in a law journal and (2) is not binding precedent of the Board.

Paper No. 15

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte LEONARD F. FIORE, GREGORY P. BRANDL,
ALLEN R. VOIT, and MICHAEL J. KROUZE

Appeal No. 95-1402
Application No. 07/936,507[1]

ON BRIEF

Before BARRETT, FLEMING and DIXON, Administrative Patent Judges.

DIXON, Administrative Patent Judge.

DECISION ON APPEAL

This is a decision on appeal from the examiner's final rejection of claims 1-11, which are all of the claims pending in this application.

We REVERSE.

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[1] Application for patent filed August 28, 1992.

BACKGROUND

The invention relates to a quality control apparatus and method for a paper mill. The invention utilizes the existing computers and data processing systems which operate with existing pulp or paper processing equipment. The invention further utilizes existing computers in laboratories of the paper mill. The laboratory data and operational data are collected. The operational data are reformatted to a single/ common format. The system routes the reformatted data to selected locations in the paper mill for use as needed by technicians and operators of the mill. An understanding of the invention can be derived from a reading of exemplary claim 1 reproduced below.

> 1. A quality control apparatus for a paper mill having on-line apparatus for making pulp and paper, data collectors for collecting operational data from the on-line apparatus and at least one off-line laboratory for evaluating samples taken from the on-line apparatus, said quality control apparatus comprising:
>
> at least one lab entry station communicating with the off-line laboratory for receiving data therefrom;
>
> at least one gateway entry station communicating with the data collectors for receiving the collected operational data from the on-line apparatus and reformatting the collected operational data into a single format;
>
> a global data base manager communicating with each said lab entry station and each said gateway entry station for receiving data therefrom, identifying the received data and assigning at least one address to each item of the received data;

a communications manager communicating with the global data base manager for sending data to each address identified by the global data base manager; and

a plurality of operator stations disposed in proximity to the respective addresses in the paper mill and being in communication with the global data base manager, each said operator station being operative to display data communicated thereto and capable of correlating and reformatting said data to analyze the effects of operational changes at one location in the mill on performance at that location or at other locations in the mill and being operative to make operational changes throughout the mill to insure conformance to specifications.

The prior art references of record relied upon by the examiner in rejecting the appealed claims are:

Reiter et al. (Reiter)	4,604,686	Aug. 05, 1986
Cope	4,304,001	Dec. 01, 1981
Beasley et al. (Beasley)	4,827,423	May 02, 1989

J.. R. Lavigne, “An Introduction to Paper Industry Instrumentation,” 402-15 (1972)

Claims 1-3, and 5-7 stand rejected under 35 U.S.C. § 103 as being unpatentable over Lavigne alone or Lavigne in view of Reiter. Claims 4, 8, 10 and 11 stand rejected under 35 U.S.C. § 103 as being unpatentable over Lavigne alone or in view of Reiter as applied against claims 1-3 and 5-7 further in view of Cope. Claim 9 stands rejected under 35 U.S.C. § 103 as being unpatentable over Lavigne in view of Reiter further in view of Cope as applied against claims 8 and 10 further in view of Beasley.

Rather than reiterate the conflicting viewpoints advanced by the examiner and the appellants regarding the above-noted rejections, we make reference to the examiner's answer, mailed September 7, 1994 (Paper No. 12) for the examiner's complete reasoning in support of the rejections, and to the appellant's brief, filed June 29, 1994 (Paper No. 11) for the appellants' arguments thereagainst.

OPINION

In reaching our decision in this appeal, we have given careful consideration to the appellants' specification and claims, to the applied prior art references, and to the respective positions articulated by the appellants and the examiner. As a consequence of our review, we make the determinations which follow.

LAVIGNE REFERENCE ALONE

The examiner argues that Lavigne alone teaches the claimed invention. The examiner asserts that "[t]he control computers inherently includes all the functions carried out by the gateway entry station and global data base manager." (See answer at page 3.) We disagree. Appellants argue that the examiner's assertion that "reformatting the collected operational data into a single format" is inherent in Lavigne is "nothing more than an unsubstantiated ultimate conclusion." (See brief at page 4.) We agree with appellants.

The Federal Circuit recently discussed inherency and whether an aspect of a claimed invention would be necessary from the disclosure in ***In re Robertson***, 169 F.3d 743, 745, 49 USPQ2d 1949, 1950-51 (Fed. Cir. 1999). The Federal Circuit stated that "[t]o establish inherency, the extrinsic evidence 'must make clear that the missing descriptive matter is necessarily present in the thing described in the reference, and that it would be so recognized by persons of ordinary skill.' " The Federal Circuit further stated that "[i]herency, however, may not be established by probabilities or possibilities. The mere fact that a certain thing may result from a given set of circumstances is not sufficient." ***Id.*** at 1269, 20 U.S.P.Q.2d at 1749. From the factual evidence as stated by the examiner in the answer, it would not be "necessary" yet it may have been obvious that some or all of the functions would be carried out. The examiner has not made this argument or provided any line of reasoning why it would have been obvious to one of ordinary skill in the art at the time of the invention to have the gateway entry station and global database manager perform all of the recited functions.

The examiner continues with this line of argument stating "[a]s for the means for reformatting the collected [and] the operational data into a single format, this is inherently included in Lavigne when he shows the collection of many process data and

converted into usable data displayed on the terminals. Means for converting electrical signals to digital or vice-versa are conventional and inherently disclosed in Lavigne." (See answer at pages 3-4.) We disagree with the examiner that Lavigne inherently reformats data into a single or common data format. Lavigne merely discloses that the different subunits of the paper mill process control may be formed into a single system to control overall operation of the mill. (See Figure 19-11.) Lavigne does not disclose or suggest any manner of data handling or manipulation within the combined system. Appellants argue that the examiner has "overlooked the specific arrangement of the major components of the claimed invention and the advantages inherent in that arrangement." (See brief at page 3.) We agree with appellants.

LAVIGNE IN VIEW OF REITER

As discussed above, Lavigne does not disclose or suggest any manner of data handling or manipulation within the combined system. The examiner supplies Reiter as a teaching of "integrating data in a distributed processing environment with means for reformatting the data into a single format (Fig. 7 and claims 13-15)." (See answer at page 4.) Appellants argue that "[t]he art of record includes absolutely no disclosure which would motivate one of ordinary skill in the art to modify the apparatus of L[a]vigne by incorporating whatever reformatting function that may be disclosed in Reiter." (See brief at

page 5.) We disagree, but note that the reformatting disclosed by Reiter does not appear to be the same as that set in the claim. A close review of the Reiter patent shows that the relevant portions cited by the examiner, when taken in context of the entire teaching of Reiter, merely teaches that the data is formatted or converted into a common format in preparation of the output to the user at the user terminal. This is a common format for presentation of the data to the user rather than a "reformatting the collected operational data into a single format" as recited in claim 1. Claim 1 further requires that:

> [A] plurality of operator stations disposed in proximity to the respective addresses in the paper mill and being in communication with the global data base manager, each said operator station being operative to display data communicated thereto and capable of correlating and reformatting said data to analyze the effects of operational changes at one location in the mill on performance at that location or at other locations in the mill.

Reiter appears to teach the later reformatting of the data communicated thereto. Reiter clearly does not teach both reformatting functions as set forth in the language of claim 1.

Reiter generally discloses the problem of having various computer systems as does Lavigne, but neither discloses the reformatting of the operational data to a common or single format as set forth in claim 1. Reiter is mainly concerned with end user reformatting and user-friendly presentation of the reformatted data rather than reformatting operational data. (See abstract.) Reiter further elaborates upon the ADAM (Associative Data Access Method) interface as emulating the dialogues of the respective processors and databases. This emulation is performed in the protocols, logons data base managers

and query languages that sit on top of the data base managers. (See col. 3-4.) Clearly Reiter does not disclose the "reformatting the collected operational data into a single format" as recited in claim 1.

Appellants argue that there is no motivation to combine the teachings of Lavigne with those of Reiter. (See brief at page 5.) We disagree. Lavigne teaches the use of computers in the monitoring and quality control of a paper mill, therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to look to general teachings within the computer-related technologies to assist in the developing of an overall system configuration. The skilled artisan would have found the Reiter reference. Here, the combination of Lavigne and Reiter would not teach the invention as set forth in claim 1.

Appellants further argue that:

> Reiter is not within the field of endeavor of this invention. . . . The example given [in Reiter] of the different types of information processed are payroll, personnel requirements, manufacturing and control inventory and the like, all being taken care of by different machines from different vendors. There is no indication or even suggestion that the solution to the office administration problem as above set out would have any application in a specific manufacturing industry and in particular the paper industry. In the instant invention, we are dealing with a quality control apparatus in a paper mill. The gateway entry station which does the reformatting is directly connected to on-line equipment in the paper mill and it exists for assessing various parameters defining the performance of the paper mill.

(See brief at pages 6-7.) We disagree with appellants' argument as stated above. Furthermore, the claim does not detail the type of data being reformatted beyond

operational data or that an “assessment” is carried out by the gateway entry station. Therefore, this argument is not persuasive.

LAVIGNE IN VIEW OF REITER AND COPE

The examiner relies upon Cope to teach the validating of information. (See answer at page 5.) The examiner has not relied upon Cope to teach any “reformatting the collected operational data into a single format” as recited in claim 1. Furthermore, the examiner has not identified any portion of Cope teaching or suggesting this feature, nor do we find a clear teaching thereof in Cope.

LAVIGNE IN VIEW OF REITER, COPE AND BEASLEY

Similarly, Beasley does not teach or suggest the missing teaching as discussed above.

In reaching our decision in this appeal, we have given careful consideration to the appellants’ specification and claims, to the applied prior art references, and to the respective positions articulated by the appellants and the examiner. Upon evaluation of all the evidence before us, it is our conclusion that the evidence adduced by the examiner is not sufficient to establish a ***prima facie*** case of obviousness with respect to claim 1. Accordingly, we will not sustain the examiner's rejection of independent claim 1 under 35 U.S.C. § 103. Similar limitations are found in claims 8 and 11. Therefore, we will

not sustain the examiner's rejection of independent claims 8 and 11 under 35 U.S.C. § 103. Since not all of the limitations of claims 1 and 8 are taught or suggested by the prior art applied against these claims, we will not sustain the rejection of dependent claims 2-7, 9 and 10.

CONCLUSION

To summarize, the decision of the examiner to reject claims 1-11 under 35 U.S.C. § 103 is reversed.

REVERSED

LEE E. BARRETT Administrative Patent Judge	)	
MICHAEL R. FLEMING Administrative Patent Judge	)	BOARD OF PATENT APPEALS AND INTERFERENCES
JOSEPH L. DIXON Administrative Patent Judge	)	

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